
WYONG SHIRE COUNCIL
MINUTES OF THE
ORDINARY MEETING OF COUNCIL
HELD IN THE COUNCIL CHAMBER
WYONG CIVIC CENTRE, HELY STREET, WYONG
ON WEDNESDAY, 25 JUNE 2008,
COMMENCING AT 5.00 PM

PRESENT

COUNCILLORS W J WELHAM (CHAIRPERSON), G P BEST, D J EATON, K M FORSTER, R L GRAHAM, B J PAVIER, R E STEWART, R C STEVENS AND C W VEUGEN.

IN ATTENDANCE

GENERAL MANAGER, ACTING DIRECTOR CORPORATE SERVICES, DIRECTOR SHIRE PLANNING, ACTING DIRECTOR SHIRE SERVICES, MANAGER DEVELOPMENT ASSESSMENT, ACTING MANAGER FUTURE PLANNING AND TWO ADMINISTRATION STAFF.

ACTING MANAGER CORPORATE AND ADMINISTRATION SERVICES.

THE MAYOR REPORTED THAT:

- * THE GENERAL MANAGER ADVISED WYONG SHIRE COUNCIL WAS THE RECIPIENT OF THE GOLD AWARD FROM THE 2007 PREMIERS PUBLIC SECTOR AWARDS, IN RECOGNITION OF THE EFFORTS FOR THIS ORGANISATION IN RESPONDING TO THE 2007 JUNE LONG WEEKEND STORM.

THE MAYOR, COUNCILLOR W J WELHAM, DECLARED THE MEETING OPEN AT 5.04 PM, ADVISED THAT THE MEETING IS BEING RECORDED AND REVEREND MARK WATT DELIVERED THE OPENING PRAYER.

APOLOGY

AN APOLOGY FOR THE INABILITY TO ATTEND THE MEETING WAS RECEIVED ON BEHALF OF COUNCILLOR ROSE DUE TO WORK COMMITMENTS.

RESOLVED unanimously on the motion of Councillor WELHAM and seconded by Councillor STEVENS:

That the apology be accepted and leave of absence from the meeting be granted.

AT THE COMMENCEMENT OF THE ORDINARY MEETING REPORT NOS 264, 265, 266, 267, 268 AND 283, WERE DEALT WITH FIRST THEN THE REMAINING REPORTS IN ORDER WITH THE EXCEPTION OF REPORT NOS 273 AND 300. HOWEVER FOR THE SAKE OF CLARITY THE REPORTS ARE RECORDED IN THEIR CORRECT AGENDA SEQUENCE.

Minutes of the Ordinary Meeting of Council held on 25 June 2008 (contd)

264 Disclosures of Interest

F2008/01064 MW:SW

274 – CONTRACT CPA 140816 – CONSTRUCTION OF THE ENTRANCE COMMUNITY CENTRE STAGE 2
 COUNCILLOR EATON DECLARED A PECUNIARY CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HIS BUSINESS DEALS WITH A NUMBER OF TENDERERS, LEFT THE CHAMBER AT 6.55 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 6.56 PM.

300 – NOTICE OF RESCISSION – WYONG COMMUNITY RECREATION ASSOCIATION

W015 – NOTICE OF MOTION – LAKE HAVEN RECREATIONAL CENTRE QUERY

W016 – WYONG COMMUNITY RECREATION ASSOCIATION

COUNCILLOR STEWART DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT SHE IS A COUNCILLOR APPOINTED TO THAT BOARD AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR STEWART STATED:

"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY, HOWEVER, IN THE EVENT OF LEGAL ACTION AGAINST WYCRA I MAY DECLARE."

300 – NOTICE OF RESCISSION – WYONG COMMUNITY RECREATION ASSOCIATION

W015 – NOTICE OF MOTION – LAKE HAVEN RECREATIONAL CENTRE QUERY

W016 – WYONG COMMUNITY RECREATION ASSOCIATION

COUNCILLOR EATON DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS A COUNCIL NOMINEE ON WYCRA AND GENERALLY INTERESTS CO-INCIDE AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR EATON STATED:

"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE GENERALLY INTERESTS CO-INCIDE BUT MAY HAVE TO RE-EVALUATE IF POTENTIAL CONFLICT ARISES."

THE GENERAL MANAGER ADVISED THAT HE HAD PREVIOUSLY DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN REGARD TO THE WYCRA MATTERS. HOWEVER, GIVEN THE CURRENT POTENTIAL CONFLICT BETWEEN WYCRA AND COUNCIL, HE HAD TAKEN LEGAL ADVICE THAT HE SHOULD NOT SIT ON THE WYCRA BOARD AT THIS POINT IN TIME.

THE GENERAL MANAGER STATED "AS THE CONFLICT WOULD BE SUCH THAT HE COULD NOT RESOLVE IT, AS MY BASIC DUTY IS TO THE COUNCIL AS AN EMPLOYEE OF COUNCIL, THEREFORE I DID NOT ATTEND THE LAST WYCRA MEETING AND FROM THAT POINT OF VIEW I DID NOT BELIEVE THERE WAS A CONFLICT IN THE MATTERS BEFORE THE COUNCIL TONIGHT".

RESOLVED unanimously on the motion of Councillor GRAHAM and seconded by Councillor STEVENS:

That the report be received and advice of disclosures noted.

Minutes of the Ordinary Meeting of Council held on 25 June 2008 (contd)

265 Proposed Inspections

F2008/00003 MW:SW

RESOLVED unanimously on the motion of Councillor STEWART and seconded by Councillor PAVIER:

- 1 That the report on inspections conducted on Wednesday, 25 June 2008 be received and the information noted.**
- 2 That Council note that representatives from the Department of Environment and Climate Change were present at the inspections of Gwandalan Landfill and Toukley Transfer Station.**

266 Proposed Briefings

F2008/00003 MW:SW

RESOLVED unanimously on the motion of Councillor STEWART and seconded by Councillor STEVENS:

That the report be received and the information noted.

267 Address by Invited Speakers

F2008/00003 MW:SW

RESOLVED unanimously on the motion of Councillor STEVENS and seconded by Councillor STEWART:

- 1 That the amended report on Invited Speakers be received and the information noted.**
- 2 That, should speakers be present at the meeting, standing orders be varied to allow Director's and General Manager reports to be dealt with following the speaker's address, with the exception of WYCRA matters which will be dealt with at the end of the meeting.**

Minutes of the Ordinary Meeting of Council held on 25 June 2008 (contd)

268 Notice of Intention to Deal With Matters in Confidential Session

F2008/00003 MW:SW

It was MOVED by Councillor EATON and SECONDED by Councillor STEVENS:

- 1 That pursuant to Section 10A(2)(a) and 10A(2)(g) of the Local Government Act, 1993, the following reports and briefing be dealt with in Confidential Session:*

W014 – Existing “Body Hire” Arrangements

W015 – Notice of Motion – Lake Haven Recreational Centre Query

W016 – Notice of Motion – Wyong Community Recreation Association

W016A – Notice of Rescission - Wyong Community Recreation Association

- 2 That the reason for dealing with Report No W014 confidentially is that it contains personnel matters concerning particular individuals and commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.*
- 3 That the reason for dealing with Report Nos W015 and W016 confidentially is that it contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.*
- 4 That the reason for holding a briefing on Wyong Community Recreation Association confidentially is that it contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.*
- 5 That, in accordance with the Council resolution, the General Manager will report on this matter to the meeting in Confidential Session.*

An AMENDMENT was MOVED by Councillor PAVIER and SECONDED by Councillor GRAHAM:

- 1 That pursuant to Section 10A(2)(a) and 10A(2)(g) of the Local Government Act, 1993, the following reports and briefing be dealt with in Confidential Session:*

W014 – Existing “Body Hire” Arrangements

W015 – Notice of Motion – Lake Haven Recreational Centre Query

Minutes of the Ordinary Meeting of Council held on 25 June 2008 (contd)

W016A – Notice of Rescission - Wyong Community Recreation Association

- 2 *That the reason for dealing with Report No W014 confidentially is that it contains personnel matters concerning particular individuals and commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.*
- 3 *That the reason for dealing with Report No W015 confidentially is that it contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.*
- 4 *That the reason for holding a briefing on Wyong Community Recreation Association confidentially is that it contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.*
- 5 *That, in accordance with the Council resolution, the General Manager will report on this matter to the meeting in Confidential Session.*
- 6 *That W016 be dealt with in Open Session.*

FOR: COUNCILLORS FORSTER, GRAHAM, PAVIER AND WELHAM.

AGAINST: COUNCILLORS BEST, EATON, STEVENS, STEWART AND VEUGEN.

The AMENDMENT was put to the VOTE and declared LOST.

RESOLVED on the motion of Councillor EATON and seconded by Councillor STEVENS:

- 1 ***That pursuant to Section 10A(2)(a) and 10A(2)(g) of the Local Government Act, 1993, the following reports and briefing be dealt with in Confidential Session:***

W014 – Existing “Body Hire” Arrangements

W015 – Notice of Motion – Lake Haven Recreational Centre Query

W016 – Notice of Motion – Wyong Community Recreation Association

W016A – Notice of Rescission - Wyong Community Recreation Association

Minutes of the Ordinary Meeting of Council held on 25 June 2008 (contd)

- 2** *That the reason for dealing with Report No W014 confidentially is that it contains personnel matters concerning particular individuals and commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.*
- 3** *That the reason for dealing with Report Nos W015 and W016 confidentially is that it contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.*
- 4** *That the reason for holding a briefing on Wyong Community Recreation Association confidentially is that it contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.*
- 5** *That, in accordance with the Council resolution, the General Manager will report on this matter to the meeting in Confidential Session.*

FOR: COUNCILLORS BEST, EATON, STEVENS, STEWART, VEUGEN AND WELHAM.

AGAINST: COUNCILLORS FORSTER, GRAHAM AND PAVIER.

269 Confirmation of Minutes of Previous Meeting

F2008/00003 MW:SW

RESOLVED unanimously on the motion of Councillor WELHAM and seconded by Councillor STEVENS:

That the minutes of the previous Ordinary Meeting of Council held on 11 June 2008 be received and confirmed.

BUSINESS ARISING FROM THE MINUTES

THERE WAS NO BUSINESS ARISING FROM THE MINUTES.

Minutes of the Ordinary Meeting of Council held on 25 June 2008 (contd)

270 Contract CPA 139071 – Hunter Councils Inc Period Contract for the Supply and Delivery of General Stationery and Ancillary Products

CPA/128566 JM

RESOLVED unanimously on the motion of Councillor FORSTER and seconded by Councillor STEVENS:

- 1 That subject to all participating Councils of Hunter Councils Inc agreeing to participate, Council agree to the contract between Hunter Councils Inc and Corporate Express for the supply and delivery of General Stationery and Ancillary products from the date of acceptance by Hunter Councils Inc until 30 June 2010.**
- 2 That Council note the annual estimated expenditure against this contract is \$249,273 including GST (\$226,611 excluding GST).**

271 Contract CPA 138816 – Development of a Commercial Strategy for Council's Waste Management Site at Buttonderry

CPA/138816 JR

It was MOVED by Councillor STEWART and SECONDED by Councillor WELHAM:

- 1 That Council accept Tender No 3 from KPMG Corporate Finance (Aust) Pty Ltd in the lump sum amount of \$201,179 including GST (\$182,890 excluding GST) for Contract CPA 138816 – Development of a Commercial Strategy for Council's Waste Management Site at Buttonderry.*
- 2 That Council approve a contingency amount of \$60,000 including GST (\$54,545 excluding GST), representing approximately 30% of the contract value, to provide for any unforeseen additional works that may become necessary during the course of the project.*

An AMENDMENT was MOVED by Councillor EATON and SECONDED by Councillor BEST;

That this matter be deferred pending a briefing of Council, to be held as soon as practicable.

FOR: COUNCILLORS BEST, EATON, FORSTER, GRAHAM, PAVIER, STEWART, VEUGEN AND WELHAM.

AGAINST: COUNCILLOR STEVENS.

The AMENDMENT then became the MOTION.

RESOLVED unanimously on the motion of Councillor EATON and seconded by Councillor BEST:

That this matter be deferred pending a briefing of Council, to be held as soon as practicable.

272 Contract CPA 116095 – Toukley Aquatic Centre and Wyong Olympic Pool – Proposed Increase of Admission Fees

CPA/116095 GK/GK

It was MOVED by Councillor BEST and SECONDED by Councillor VEUGEN:

That Council maintain the current fee structure.

FOR: COUNCILLORS BEST AND VEUGEN.

AGAINST: COUNCILLORS EATON, FORSTER, GRAHAM, PAVIER, STEVENS, STEWART AND WELHAM.

The MOTION was put to the VOTE and declared LOST.

RESOLVED on the motion of Councillor GRAHAM and seconded by Councillor STEVENS:

- 1** *That the proposed fee increases for the Toukley and Wyong Pools be advertised for public comment.*
- 2** *That subject to no public submissions to the advertising of the fee changes, the following fees at these pools be adjusted to the amounts shown below from 1 September 2008, and adjusted thereafter up to the CPI as a maximum.*

Child Fee	\$2.00 (50 cent increase)
Concession Fee	\$2.00 (50 cent increase)
Family Fee	\$11.00 (new fee for two adults and up to four children)

FOR: COUNCILLORS EATON, FORSTER, GRAHAM, PAVIER, STEVENS, STEWART AND WELHAM.

AGAINST: COUNCILLORS BEST AND VEUGEN.

273 Contract CPA 137900 – Provision of Security Services

CPA/137900 SLM

RESOLVED unanimously on the motion of Councillor BEST and seconded by Councillor EATON:

That this matter be deferred to later in the business paper to allow staff to research answers to questions.

RESOLVED unanimously on the motion of Councillor EATON and seconded by Councillor BEST:

That this matter be deferred for staff to resubmit the report, that will include additional information to Councillors.

274 Contract CPA 140816 – Construction of The Entrance Community Centre Stage 2

CPA/140816 GB

COUNCILLOR EATON DECLARED A PECUNIARY CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HIS BUSINESS DEALS WITH A NUMBER OF TENDERERS, LEFT THE CHAMBER AT 6.55 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 6.56 PM.

COUNCILLOR GRAHAM LEFT THE CHAMBER AT 6.55 PM AND RETURNED TO THE CHAMBER AT 6.56 PM AND AS A RESULT TOOK NO PART IN VOTING.

RESOLVED unanimously on the motion of Councillor STEWART and seconded by Councillor STEVENS:

- 1 That Council accept Tender No 3 from B.R. McKenzie Constructions Pty Ltd in the lump sum amount of \$2,392,146 including GST (\$2,174,679 excluding GST).***
- 2 That Council approve a contingency amount of \$239,000 including GST (\$217,467.90, excluding GST), representing approximately 10% of the contract value, to provide for any unforeseen additional works that may become necessary during the course of the project.***

Minutes of the Ordinary Meeting of Council held on 25 June 2008 (contd)

275 Lease and Endorsement of Development Application for Part of Lot 7074 DP 1077036 at Budgewoi Road, Budgewoi

F2008/00884 JMT

RESOLVED unanimously on the motion of Councillor STEWART and seconded by Councillor BEST:

- 1 That Council approve a lease of part of Crown Reserve 88683 at Budgewoi to Northlakes United Rugby Union Club Inc for a term of ten years or such a lesser term that does not require ministerial approval.***
- 2 That Council authorise the Common Seal of Wyong Shire Council to be affixed to the Lease between Wyong Shire Council and Northlakes United Rugby Union Club Inc.***
- 3 That Council authorise the Mayor and General Manager to execute all documents relating to the Lease between Wyong Shire Council and Northlakes United Rugby Union Club Inc.***
- 4 That Council endorse, as the Reserve Trust Manager of the Budgewoi Tourist Park Public Recreation Reserve (R88683) Reserve Trust, a development application by Northlakes United Rugby Union Club Inc to construct a deck and enclose the verandah on the land leased to it by Council.***

276 Transfer of Lot 37 being part of Lot 112 DP 1061383 Burlington Avenue, Jilliby

F2008/01057 JMT

RESOLVED unanimously on the motion of Councillor EATON and seconded by Councillor STEWART:

- 1 That Council proposed classification of proposed Lot 37 being part of Lot 112 DP 1061383, in Burlington Avenue, Jilliby as Operational Land.***
- 2 That the proposed be advertised in accordance with Section 34 of the Local Government Act 1993.***
- 3 That, if no adverse submissions are received, the classification be adopted.***

Minutes of the Ordinary Meeting of Council held on 25 June 2008 (contd)

277 Surrender of Lease, New Lease and Endorsement of Development Application for Part of Crown Reserve R55566 at Bay Road, Toowoon Bay

F2004/13049 JMT

THIS ITEM WAS WITHDRAWN BY ACTING DIRECTOR CORPORATE SERVICES TO ALLOW ADDITIONAL INFORMATION TO BE INCLUDED.

278 Renewal of Licence Agreements for Part Lot 1 DP 1068216 Liamena Avenue San Remo

F2008/00491 SB

RESOLVED unanimously on the motion of Councillor EATON and seconded by Councillor BEST:

- 1 That Council renew the licence agreement from Delta Electricity for Part Lot 1 DP 1068216 for public reserve including footbridge and carparking for the San Remo Hotwater Outlet Reserve, for a period of 5 years for a licence fee of \$1.00 per annum.**
- 2 That Council authorise the affixing of the Common Seal of the Wyong Shire Council to the licence document between the Wyong Shire Council and Delta Electricity.**
- 3 That Council authorise the execution by the Mayor and the General Manager, of all documents relating to the licence between the Wyong Shire Council and Delta Electricity.**
- 4 That Council acquire the land in question to guarantee its long term public availability given the likelihood of Delta Electricity's privatisation.**

279 Sister Cities Australia National Conference

F2004/07107 MW

RESOLVED on the motion of Councillor PAVIER and seconded by Councillor FORSTER:

- 1 That Council authorise interested Councillors to attend the 2008 Sister Cities Australia National Conference.**

Minutes of the Ordinary Meeting of Council held on 25 June 2008 (contd)

- 2** *That reasonable expenses incurred in Councillors attending the conference be met in accordance with Council's Facilities and Expenses Policy for Councillors.*

FOR: COUNCILLORS EATON, FORSTER, GRAHAM, PAVIER, STEVENS, STEWART, VEUGEN AND WELHAM.

AGAINST: COUNCILLOR BEST.

280 Extension of Alcohol Free Zone at Toukley

F2004/06081 MW

RESOLVED unanimously on the motion of Councillor PAVIER and seconded by Councillor STEVENS:

- 1** *That Council prepare a proposal for the extension of an Alcohol Free Zone at the following location for a period up to 30 June 2009:*

Toukley: Main Road from Norah Head roundabout to Toukley Bridge, entirety of Canton Beach Road and Beach Parade.

- 2** *That procedures for advertisement and notification of the proposal be implemented in accordance with the Ministerial Guidelines on Alcohol Free Zones.*

- 3** *That Council exercise the option of advising the NSW Anti-Discrimination Board of all the proposals.*

- 4** *That the matter be resubmitted for Council determination following compliance with these procedures.*

281 Funding Request Change – Australian Volunteer Coast Guard Association Tuggerah Lakes

F2007/00729 SG

RESOLVED unanimously on the motion of Councillor EATON and seconded by Councillor BEST:

That the original funding of \$350 for two pole type tables to the Australian Volunteer Coast Guard Association Tuggerah Lakes be reallocated to purchase equipment for the Central Coast Guard Vessel.

Minutes of the Ordinary Meeting of Council held on 25 June 2008 (contd)

282 Indian Myna Bird

F2004/06909 PM

RESOLVED unanimously on the motion of Councillor STEWART and seconded by Councillor BEST:

- 1 That Council place an electronic copy of the Central Coast Indian Myna Action Group information brochure on the Council webpage and distribute brochures.**
- 2 That Council purchase five traps for the Indian Myna Bird Action Group at \$400 each as per the quote provided.**

AT THIS STAGE OF THE MEETING COUNCIL CONSIDERED ITEM 273 CONTRACT CPA 137900 - PROVISION OF SECURITY SERVICES.

283 Recreation Smoke – Free Policy

F2004/06003 SP:SP

MS KATE BROWN, REPRESENTING THE CANCER COUNCIL, ADDRESSED THE MEETING AT 5.27 PM, ANSWERED QUESTIONS AND RETIRED AT 5.42 PM.

It was MOVED by Councillor WELHAM and SECONDED by Councillor STEWART:

- 1 That Council adopt the amended "Recreation Smoke-Free" Policy and implementation strategy.*
- 2 That the policy be amended to provide the promoters of events held on Council managed land or sponsored by Council, be encouraged to operate the events as smoke-free.*
- 3 That public notice is given of the decision.*
- 4 That those people who made a submission during the exhibition be informed of Council's decision.*
- 5 That Council recognise the outstanding contribution that the NSW Cancer Council provides our community and that Council donate to the NSW Cancer Council \$1,000 in recognition of our support.*

Minutes of the Ordinary Meeting of Council held on 25 June 2008 (contd)

It was MOVED by Councillor PAVIER and seconded by Councillor GRAHAM:

That the MOTION be put.

RESOLVED unanimously that the MOTION be put.

RESOLVED on the motion of Councillor WELHAM and seconded by Councillor STEWART:

- 1 That Council adopt the amended "Recreation Smoke-Free" Policy and implementation strategy.***
- 2 That the policy be amended to provide the promoters of events held on Council managed land or sponsored by Council, be encouraged to operate the events as smoke-free.***
- 3 That public notice is given of the decision.***
- 4 That those people who made a submission during the exhibition be informed of Council's decision.***
- 5 That Council recognise the outstanding contribution that the NSW Cancer Council provides our community and that Council donate to the NSW Cancer Council \$1,000 in recognition of our support.***

FOR: COUNCILLORS BEST, FORSTER, GRAHAM, STEVENS, STEWART AND WELHAM.

AGAINST: COUNCILLORS EATON, PAVIER AND VEUGEN.

Information Reports

RESOLVED unanimously on the motion of Councillor PAVIER and seconded by Councillor STEVENS:

That with the exception of report numbers 286 and 288 the information reports be received and the recommendations adopted.

Minutes of the Ordinary Meeting of Council held on 25 June 2008 (contd)

284 Strategies That Encourage Lot Amalgamation of the “Vacant Site” and the “KFC site” on the Corner of The Entrance Road and Marine Parade

CPA/105639 SA

RESOLVED unanimously on the motion of Councillor PAVIER and seconded by Councillor STEVENS:

That the report be received and the information noted.

285 Central Coast Transport Action Plan

F2004/06677 RCB

RESOLVED unanimously on the motion of Councillor PAVIER and seconded by Councillor STEVENS:

That the report be received and the information noted.

286 Activities of the Development Assessment Unit

F2004/07830 JD:JD

RESOLVED unanimously on the motion of Councillor BEST and seconded by Councillor VEUGEN:

That the report be received and the information noted.

287 Results of Water Quality Testing for Bathing Beaches

F2004/06822 JS:JS

RESOLVED unanimously on the motion of Councillor PAVIER and seconded by Councillor STEVENS:

That the report be received and the information noted.

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288 Park Beach, The Entrance

F2004/00644

RESOLVED unanimously on the motion of Councillor EATON and seconded by Councillor BEST:

- 1 That the report be received and the information noted.**
- 2 That Council assess the Park Beach regularly from October 2008 to March 2009 in terms of :**
 - a Usage**
 - b Safety**
 - c Erosion**

And report back to Council in April 2009.

289 Pipeline Corridor Quarantine Zone Representations

F2006/01080 ED

RESOLVED unanimously on the motion of Councillor PAVIER and seconded by Councillor STEVENS:

That the report be received and the information noted.

290 Works in Progress Report – Water and Sewerage

F2004/07830 IC:DP

RESOLVED unanimously on the motion of Councillor PAVIER and seconded by Councillor STEVENS:

That the report be received and the information noted.

Minutes of the Ordinary Meeting of Council held on 25 June 2008 (contd)

291 General Works in Progress Report

F2004/07830 JEM

RESOLVED unanimously on the motion of Councillor PAVIER and seconded by Councillor STEVENS:

That the report be received and the information noted.

292 Outstanding Questions Without Notice and Notices of Motion

F2008/00003 SW

RESOLVED unanimously on the motion of Councillor PAVIER and seconded by Councillor STEVENS:

That the report be received and the information noted.

293 Notice of Motion – The Entrance Long Jetty Strategy Meeting

CPA/105639

COUNCILLOR BEST LEFT THE CHAMBER AT 7.21 PM AND RETURNED TO THE CHAMBER AT 7.33 PM DURING CONSIDERATION OF THIS ITEM.

RESOLVED unanimously on the motion of Councillor PAVIER and seconded by Councillor GRAHAM:

That as a result of recent discussions on The Entrance/Long Jetty Strategy, a special planning opportunity with unique features exists between three strategic land holders in The Entrance. Those features should be explored with a view to reduce duplication of resources and to maximize community assets.

- 1 That Council facilitates a meeting with Key Stake holders – The Entrance Bowling Club, Lakeside Plaza and Wyong Shire Council to discuss planning options for a precinct having immense interest across many areas of importance - retail shopping, transport, entertainment, sport (both active and passive), residential and tourism.***

Minutes of the Ordinary Meeting of Council held on 25 June 2008 (contd)

- 2** *That options of discussion not be limited but certainly to include;*
- * *Road Closures*
 - * *Carparking*
 - * *Bus Interchange*
 - * *Height Limits*
 - * *Joint Shared facilities such as toilets/grandstands*
 - * *Time frames*
 - * *Residential/commercial/Entertainment*
- 3** *That the Mayor chair the meeting with interested Councillors/Senior Staff and the above key stakeholders and report back on the progress or otherwise of the meeting.*

294 **Notice of Motion – Funding of Public Radiation / Oncology Service for the Central Coast**

F2004/08724 KMF/RLG

COUNCILLOR STEWART LEFT THE CHAMBER AT 7.25 PM AND RETURNED TO THE CHAMBER AT 7.27 PM DURING CONSIDERATION OF THIS ITEM.

MS CATHY SMITH, REPRESENTING THE CENTRAL COAST ADVOCACY NETWORK, ADDRESSED THE MEETING AT 7.25 PM, ANSWERED QUESTIONS AND RETIRED AT 7.40 PM.

MS DIANNE MORGAN, REPRESENTING THE CENTRAL COAST ADVOCACY NETWORK, ADDRESSED THE MEETING AT 7.32 PM, ANSWERED QUESTIONS AND RETIRED AT 7.33 PM.

RESOLVED unanimously on the motion of Councillor FORSTER and seconded by Councillor GRAHAM:

- 1** *That Council notes with dismay the State Government's failure to once again fund a public radiotherapy service for the Central Coast.*
- 2** *That Council write to the Member for Dobell, Mr Craig Thomson, thanking him for his support for a public radiotherapy service on the Central Coast and assuring him of our support for this to be given highest priority for Federal funding.*
- 3** *That Council seek the support of Gosford City Council.*
- 4** *That Council write to all Local State Government Members of Parliament encouraging them to support the community in its quest to seek financial assistance for a public radiotherapy service for the Central Coast.*

Minutes of the Ordinary Meeting of Council held on 25 June 2008 (contd)

295 Notice of Motion – Wyong Pool Maintenance Policy

F2005/02391

COUNCILLOR FORSTER LEFT THE CHAMBER AT 7.50 PM AND RETURNED TO THE CHAMBER AT 8.00 PM DURING CONSIDERATION OF THIS ITEM.

It was MOVED by Councillor EATON and SECONDED by Councillor VEUGEN:

That Council as a matter of policy commit to the long term retention of Wyong Pool and reverse the current policy of minimal maintenance pending closure consequential to the building of a Warnervale aquatic facility.

An AMENDMENT was MOVED by Councillor PAVIER and SECONDED by Councillor GRAHAM;

- 1 That Council defer any further decisions regarding Wyong Pool pending discussions with the Wyong Tennis Club Administrator, with a view to identifying the future direction of the Club.*
- 2 That the Mayor and General Manager be authorised to enter into discussion with the Administrator and report to Council.*

FOR: COUNCILLORS FORSTER, GRAHAM, PAVIER, STEVENS, STEWART AND WELHAM.

AGAINST: COUNCILLORS BEST, EATON AND VEUGEN.

The AMENDMENT then became the MOTION.

RESOLVED on the motion of Councillor PAVIER and seconded by Councillor GRAHAM:

- 1 That Council defer any further decisions regarding Wyong Pool pending discussions with the Wyong Tennis Club Administrator, with a view to identifying the future direction of the Club.***
- 2 That the Mayor and General Manager be authorised to enter into discussion with the Administrator and report to Council.***

FOR: COUNCILLORS FORSTER, GRAHAM, PAVIER, STEVENS, STEWART AND WELHAM.

AGAINST: COUNCILLORS BEST, EATON AND VEUGEN.

Minutes of the Ordinary Meeting of Council held on 25 June 2008 (contd)

296 Notice of Motion – Invitation to Consul General to Address Council

F2006/01080

It was MOVED by Councillor EATON and SECONDED by Councillor BEST:

That Council invite the South Korean Consul General to urgently address Council in public session on the Korean Government's plans via KORES for the Wallarah 2 Mine project and to hear Council and community views thereon.

FOR: COUNCILLORS EATON AND VEUGEN.

AGAINST: COUNCILLORS BEST, FORSTER, GRAHAM, PAVIER, STEVENS, STEWART AND WELHAM.

The MOTION was put to the vote and declared LOST.

297 Notice of Motion – Education Program into Toddler Drowning

F2004/06027

MR JOHN ANDREWS, NATIONAL SECRETARY/TREASURER REPRESENTING THE AUSTRALIAN PROFESSIONAL OCEAN LIFEGUARD ASSOCIATION INC, ADDRESSED THE MEETING AT 8.14 PM, ANSWERED QUESTIONS AND RETIRED AT 8.26 PM.

RESOLVED unanimously on the motion of Councillor BEST and seconded by Councillor EATON:

- 1 That as drowning is the leading cause of accidental death of children below the age of five years and further to staff advice that Wyong Shire has approximately 10,000 backyard pools, Council review effectiveness of its current swimming pool audit program, which has only achieved 140 pool inspections with almost 50% failing to comply with pool safety requirements.***
- 2 That to assist staff in delivering this important compliance / education program, staff report to Council on the likely benefits of redeployment of Council's professional lifeguards from their winter / off season duties in the Parks and Gardens Section with a view to utilising their extensive expertise in water safety education.***

Minutes of the Ordinary Meeting of Council held on 25 June 2008 (contd)

298 Notice of Motion – The Long Jetty Commercial Options Initiative

F2008/01347

COUNCILLOR VEUGEN LEFT THE CHAMBER AT 8.37 PM AND RETURNED TO THE CHAMBER AT 8.42 PM DURING CONSIDERATION OF THIS ITEM.

COUNCILLOR STEVENS LEFT THE CHAMBER AT 8.37 PM AND RETURNED TO THE CHAMBER AT 8.40 PM DURING CONSIDERATION OF THIS ITEM.

COUNCILLOR WELHAM LEFT THE CHAMBER AT 8.41 PM AND RETURNED TO THE CHAMBER AT 8.44 PM DURING CONSIDERATION OF THIS ITEM.

MR BRUCE MCLACHLAN, A RESIDENT, ADDRESSED THE MEETING AT 8.37 PM, ANSWERED QUESTIONS AND RETIRED AT 8.54 PM.

RESOLVED unanimously on the motion of Councillor BEST and seconded by Councillor EATON:

- 1 That Council receive a briefing as part of the Long Jetty master planning that will occur following the potential adoption The Entrance Long Jetty Strategy on the permissibility and benefits / disbenefits of considering sub leasing (subject to Departmental approval) an area of the Long Jetty to cater for a commercial operation such as a cafe with possible education aspects.***
- 2 That any economical benefit derived from this activity be allocated to the maintenance and upkeep of the Long Jetty.***

299 Notice of Motion – Open and Transparent Council

F2006/00856

COUNCILLOR STEWART LEFT THE CHAMBER AT 9.15 PM AND RETURNED TO THE CHAMBER AT 9.17 PM DURING CONSIDERATION OF THIS ITEM.

It was MOVED by Councillor BEST and SECONDED by Councillor PAVIER:

That staff report to Council on the appropriate process for Council to consider in seeking to open Council's closed briefing sessions to the public and that any such public briefings be held in Council's Civic Centre Chamber.

FOR: COUNCILLORS BEST, PAVIER AND VEUGEN.

AGAINST: COUNCILLORS EATON, FORSTER, GRAHAM, STEVENS, STEWART AND WELHAM.

The MOTION was put to the vote and declared LOST.

Minutes of the Ordinary Meeting of Council held on 25 June 2008 (contd)

RESOLVED unanimously on the motion of Councillor BEST and seconded by Councillor GRAHAM:

That Council adjourn for three minutes to allow the administration staff to download the digital recorder.

THE MEETING WAS ADJOURNED AT 9.28 PM AND RESUMED AT 9.34 PM.

300 Notice of Rescission - Wyong Community Recreation Association

F2008/00352 KMF, RLG, BJP

COUNCILLOR STEWART DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT SHE IS A COUNCILLOR APPOINTED TO THAT BOARD AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR STEWART STATED:

"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY HOWEVER, IN THE EVENT OF LEGAL ACTION AGAINST WYCRA MAY DECLARE."

COUNCILLOR EATON DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS A COUNCIL NOMINEE ON WYCRA AND GENERALLY INTERESTS CO-INCIDE AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR EATON STATED:

"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE GENERALLY INTERESTS CO-INCIDE BUT MAY HAVE TO RE-EVALUATE IF POTENTIAL CONFLICT ARISES."

THE GENERAL MANAGER ADVISED THAT HE HAD PREVIOUSLY DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN REGARD TO THE WYCRA MATTERS. HOWEVER, GIVEN THE CURRENT POTENTIAL CONFLICT BETWEEN WYCRA AND COUNCIL, HE HAD TAKEN LEGAL ADVICE THAT HE SHOULD NOT SIT ON THE WYCRA BOARD AT THIS POINT IN TIME.

THE GENERAL MANAGER STATED "AS THE CONFLICT WOULD BE SUCH THAT HE COULD NOT RESOLVE IT, AS MY BASIC DUTY IS TO THE COUNCIL AS AN EMPLOYEE OF COUNCIL, THEREFORE I DID NOT ATTEND THE LAST WYCRA MEETING AND FROM THAT POINT OF VIEW I DID NOT BELIEVE THERE WAS A CONFLICT IN THE MATTERS BEFORE THE COUNCIL TONIGHT".

MR DAMIEN WARD, REPRESENTING HWL, COUNCIL'S SOLICITORS, ADDRESSED THE MEETING AT 10.04 PM, ANSWERED QUESTIONS AND RETIRED AT 11.36 PM.

MR JEFF REILLY, REPRESENTING HWL, COUNCIL'S SOLICITORS, ADDRESSED THE MEETING AT 10.04 PM, ANSWERED QUESTIONS AND RETIRED AT 11.36 PM.

Minutes of the Ordinary Meeting of Council held on 25 June 2008 (contd)

RESOLVED on the motion of Councillor FORSTER and seconded by Councillor GRAHAM:

That the following resolution carried at the Ordinary Meeting of Council held on 28 May 2008 be rescinded:

- 1 That the report be received and the information noted.**
- 2 That the governance model as described in the report be adopted.**
- 3 That Council not call tenders for the operation of Lake Haven Centre from 1 July 2008 – 30 June 2009 because of the existing contract between WYCRA and LeisureCo.**
- 4 That Council enter into legal agreements with WYCRA and LeisureCo for:**
 - a Variation of the constitution of WYCRA to provide for members of the board to be made up of Council representatives and community representatives only.**
 - b WYCRA to continue to employ staff for the operation of Lake Haven Centre to 30 June 2009.**
 - c Council to directly engage LeisureCo for Management Services for the period 1 July 2008 – 30 June 2009 in an amount of \$221,116.**
 - d WYCRA to continue to operate Bingo in the long term in order to repay Council's loans.**
- 5 That future funding, as highlighted in the cash flow to 30 June 2009, be provided by Council by way of a loan to WYCRA.**
- 6 That the Loan Agreement with WYCRA be executed.**
- 7 That Council authorise the Mayor and the General Manager to sign and seal all documents.**

FOR: COUNCILLORS BEST, FORSTER, GRAHAM, PAVIER, STEVENS, STEWART AND WELHAM.

AGAINST: COUNCILLORS EATON AND VEUGEN.

RESOLVED unanimously on the motion of Councillor FORSTER and seconded by Councillor STEVENS:

That Council move into Confidential Session to allow for further discussion as item W016A.

Minutes of the Ordinary Meeting of Council held on 25 June 2008 (contd)

301 Notice of Rescission – Schedule of Ordinary Meetings 2008

F2006/02282

RESOLVED on the motion of Councillor GRAHAM and seconded by Councillor FORSTER:

That the following resolutions carried at the Ordinary Meeting of Council held on 12 December 2007 in relation to 10 September 2008 only and 9 April 2008 be rescinded:

- * ***That the schedule of meeting dates proposed for 2008 be adopted.***
- * ***That the amended meeting dates proposed for 2008 be adopted.***

FOR: COUNCILLORS BEST, EATON, FORSTER, GRAHAM, PAVIER, STEVENS, VEUGEN AND WELHAM.

AGAINST: COUNCILLOR STEWART.

It was MOVED by Councillor GRAHAM and SECONDED by Councillor FORSTER:

- 1 *That Council vary its Code of Meeting Practice and not hold the Ordinary Meeting scheduled for 10 September 2008.*
- 2 *That Council not hold briefings on the first and second Wednesday of September 2008.*

An AMENDMENT was MOVED by Councillor EATON and SECONDED by Councillor BEST:

- 1 *That Council determine at the 27 August 2008 Ordinary Meeting whether to proceed with the meeting scheduled for 10 September 2008.*
- 2 *That Council not hold briefings on the first and second Wednesday of September 2008.*

FOR: COUNCILLORS BEST, EATON AND STEWART.

AGAINST: COUNCILLORS FORSTER, GRAHAM, PAVIER, STEVENS, VEUGEN AND WELHAM.

The AMENDMENT was put to the VOTE and declared LOST.

Minutes of the Ordinary Meeting of Council held on 25 June 2008 (contd)

RESOLVED on the motion of Councillor GRAHAM and seconded by Councillor FORSTER:

- 1 That Council vary its Code of Meeting Practice and not hold the Ordinary Meeting scheduled for 10 September 2008.**
- 2 That Council not hold briefings on the first and second Wednesday of September 2008.**

FOR: COUNCILLORS BEST, FORSTER, GRAHAM, PAVIER, STEVENS, STEWART, VEUGEN AND WELHAM.

AGAINST: COUNCILLOR EATON.

RESOLVED unanimously on the motion of Councillor GRAHAM and seconded by Councillor STEVENS:

That Council move into Confidential Session.

CONFIDENTIAL SESSION

AT THIS STAGE OF THE MEETING BEING 9.53 PM COUNCIL MOVED INTO CONFIDENTIAL SESSION WITH THE PRESS AND THE PUBLIC EXCLUDED.

OPEN SESSION

COUNCIL RESUMED IN OPEN SESSION AT 12.20 AM. THE GENERAL MANAGER REPORTED ON PROCEEDINGS OF THE CONFIDENTIAL SESSION OF THE ORDINARY MEETING OF COUNCIL AS FOLLOWS:

W014 Existing "Body Hire" Arrangements

F2006/01523 GK/GK

- 1 That the report be received and the information noted.**
- 2 That the Mayor be called upon to refer this report as an addendum to the General Manager's earlier report to the Department of Local Government for their advice.**

Minutes of the Ordinary Meeting of Council held on 25 June 2008 (contd)

W015 Notice of Motion – Lake Haven Recreational Centre Query

F2004/10762

THIS ITEM WAS WITHDRAWN BY COUNCILLOR PAVIER.

W016 Notice of Motion – Wyong Community Recreation Association

F2004/10762

That staff action the resolution in accordance with the Notice of Motion.

a [Confidential Resolution – see note below].

b [Confidential Resolution – see note below].

c [Confidential Resolution – see note below].

d [Confidential Resolution – see note below].

e [Confidential Resolution – see note below].

f [Confidential Resolution – see note below].

g [Confidential Resolution – see note below].

NOTE: THE PRECISE DETAIL CONTAINED IN THIS RESOLUTION IS WITHHELD IN ACCORDANCE WITH THE PROVISIONS OF THE LOCAL GOVERNMENT ACT AND IS NOT AVAILABLE FOR RELEASE AT THIS TIME.

W016A Notice of Rescission - Wyong Community Recreation Association

F2008/00352

1 That Council receives and notes that further legal advice has been received.

2 That the Mayor and General Manager be authorised to negotiate with WYCRA and LeisureCo respectively so as to facilitate the following commercial arrangement;

a the termination of the lease of the Lake Haven Leisure Centre premises owned by Council and leased to WYCRA on and from a nominated date and prior to 31 December 2008;

Minutes of the Ordinary Meeting of Council held on 25 June 2008 (contd)

- b reach a financial resolution with LeisureCo as to the payment by Council to it of a sum in full and final satisfaction of any outstanding fees it is owed by WYCRA (noting formally that Council makes no admission as to any obligation it has to do so and such a step is only being undertaken as a gesture of goodwill to assist WYCRA given its debt position);***
 - c negotiate and enter into an agreement with WYCRA that;***
 - i acknowledges that the Lake Haven Leisure Centre business is owned by Council;***
 - ii releases Council from any liability WYCRA alleges in terms of an underwriting arrangement or other formal financial accommodation;***
 - iii WYCRA enter into a loan arrangement for the repayment to Council of all money advanced by it to LeisureCo and any other creditor of WYCRA during the course of the conduct of the business of that incorporated association;***
 - d Council take possession of the premises from which the Lake Haven Leisure Centre is conducted so as to ensure no interruption to the conduct of the Lake Haven Leisure Centre's business and enter into a short term management agreement so as to ensure continuity in the business;***
 - e Council in due course tender for a three year contract with a management contractor;***
 - f Council authorise the Mayor and General Manager to sign and seal all documents.***
- 3 That Council's Code of Meeting Practice be varied to permit action to commence immediately in regards to the resolutions above.**

Minutes of the Ordinary Meeting of Council held on 25 June 2008 (contd)

QUESTIONS WITHOUT NOTICE ASKED

COUNCILLOR STEWART LEFT THE CHAMBER AT 11.36 PM AND DID NOT RETURN TO THE CHAMBER AND COUNCILLOR FORSTER SUBMITTED A QUESTION ON HER BEHALF.

Q040 - Fishway on the Wyong River at the Old Dairy Site**Councillor Veugen**

F2007/00279

Can Council provide information confirming that the fishway on the Wyong River at the Old Dairy Site requires modifications to bring it up to latest standards / designs?

Q041 - Notices of Motions Raised by Councillors Best and Eaton**Councillor Veugen**

F2004/07706

Councillor Best – you and Councillor Eaton have been the most consistently active Councillors with regard to raising issues on behalf of our residents and ratepayers in this Chamber. Could you both please provide information as to the actual number and background of the various Notices of Motion you have raised in this term of Council?

Q042 - Representations to Housing NSW regarding KBT Project**Councillor Stewart**

F2004/09609

Can Council make arrangements with Housing NSW to urgently make their presentation to Council regarding the Tumby / Bateau Bay / Killarney Vale (known as KBT Project) which addresses the public housing in the Pacific Del Mar and surrounding areas?

Q043 - Warnervale Town Centre**Councillor Eaton**

F2004/00535-04

Given that its now two years since Minister Sartor fast tracked Warnervale, can I be advised what celebrations are planned to commemorate this historic and momentous decision?